

**MINUTES OF THE
SENATE JUDICIAL CONFIRMATION COMMITTEE**
Monday, April 14, 2008 – 11:00 a.m. – Room W025 House Building

Members Present:

Sen. Gregory S. Bell, Chair
Sen. Mike Dmitrich
Sen. Lyle W. Hillyard
Sen. Michael G. Waddoups

Members Absent:

Sen. D. Chris Butters

Staff Present:

Ms. M. Gay Taylor, General Counsel
Mr. Jerry D. Howe, Policy Analyst
Ms. Amanda K. Majers, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Bell called the meeting to order at 11:11 a.m. The Committee introduced themselves to the candidate and the audience.

The candidate introduced himself, his business partner, and his family.

MOTION: Sen. Waddoups moved to close the meeting for the purpose of discussing the character, professional competence, or physical or mental health of Mr. Kevin K. Allen. The motion passed unanimously.

MOTION: Sen. Hillyard moved to open the meeting. The motion passed unanimously.

2. Interview of Mr. Kevin K. Allen

Mr. Allen was placed under oath by Mr. Howe. Mr. Allen informed the Committee of his background, values, career in the Navy Judge Advocate General, and civil legal experience. He also expressed his admiration for the judiciary and his aspiration to serve his community in the position as judge in the First District.

Mr. Allen was questioned by Ms. Taylor concerning his relationships and dealings with Mr. Jeffry Gittens, Neighborhood Nonprofit, Smithfield city counsel, and an excavator named Kelly Bingham. Mr. Allen explained his affiliation with these individuals.

Ms. Taylor further asked about Mr. Allen's personal finances, specifically about delinquent payments, his home mortgage, and his acquisition of Neighborhood Nonprofit's property.

Chair Bell asked Mr. Allen to disclose his indebtedness and involvement in his developing company.

Mr. Allen discussed his property developments, the loans involved in their development, and the appraisals of his property that will cover debts incurred by the developments. Mr. Allen stated that he is currently divesting himself from his business interests that have an ongoing management issue, and that he is trying to get out of anything that would conflict with his position as a judge.

Sen. Waddoups stated that judges have an obligation to be above the fray, and inquired whether there is anything in Mr. Allen's background that if it had occurred while he was a judge would reflect negatively on the state. Mr. Allen said that there was not.

Sen. Hillyard inquired why Mr. Allen left his law practice to run a real estate firm, and why he would give up running a successful development company in order to become a judge. Mr. Allen stated that his interest in becoming a judge is to serve his community, and that he believes he has the ability, training, and disposition to serve as a judge.

Sen. Hillyard asked about how Mr. Allen would handle a case where the custody of a child is at issue, and also inquired how he would handle a death penalty case.

Mr. Allen stated that he would act to facilitate the best interest for the child by relying on independent evaluators, and that he would not have an agenda or preference toward gender in determining child custody. Concerning the death penalty, Mr. Allen explained that he would approach capital cases by considering everything before him, and if the circumstances warranted it he would pursue the death penalty.

Sen. Dmitrich asked whether his affiliation with the Republican party would interfere with his actions as a judge. Mr. Allen stated that he would have no trouble issuing an opinion free from affiliation and would rule with the law.

MOTION: Sen. Hillyard moved to recommend to the full Senate the confirmation of Mr. Allen as a judge in the First District Court. The motion passed unanimously.

3. Other Items / Adjourn

MOTION: Sen. Waddoups moved to adjourn. The motion passed unanimously.

Chair Bell adjourned the meeting at 1:04 p.m.